

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GLEN L. WALKER,

Plaintiffs,

v.

TWIN CITY FIRE INSURANCE CO., THE
HARTFORD,

Defendants.

Case No. C19-565RSM

ORDER GRANTING DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT

I. INTRODUCTION

This matter comes before the Court on Defendant Twin City Fire Ins. Co. ("Twin City")'s Motion for Summary Judgment, Dkt. #24. U.S. Bank moves for dismissal of Plaintiff Glen Walker's claims for insurance coverage and bad faith damages because "he has made material misrepresentations in the presentation of his claims." *Id.* at 1. Plaintiff Walker has not filed a timely response to this Motion. Oral argument has not been requested. For the reasons stated below, the Court GRANTS this Motion and dismisses this case.

II. BACKGROUND FACTS

On March 19, 2016, Mr. Walker, while driving his 1968 Chevrolet pickup truck, struck a parked car in Kent, Washington. When police responded to the scene of the accident, Mr. Walker described the accident to the responding officer, who recorded in his police report the following:

1 Upon arriving I contacted D1 [Walker] who told me that he was
2 driving NB on 116th Ave SE when a car driving SB came into his
3 lane of travel. He said that he swerved out of the way to avoid the
4 vehicle in his lane, and he struck an unoccupied parked vehicle on
5 the shoulder on the East side of the road.

6 Dkt. #25-1 at 2. Walker was cited for improper lane travel. *Id.*

7 Mr. Walker was issued an automobile insurance policy by Twin City. The policy
8 provided personal injury protection coverage, uninsured motorist coverage, and coverage for
9 damage to Walker's covered auto. The Twin City policy provides:

10 FRAUD

11 We do not provide coverage for any insured who has made
12 fraudulent statements or engaged in fraudulent conduct in
13 connection with any accident or loss for which coverage is sought
14 under this policy.

15 Dkt. #25-15 at 49.

16 Mr. Walker reported the claim to Twin City on March 20, 2016, and made a personal
17 injury protection ("PIP") claim for medical expenses, wage loss and essential services. He also
18 made a collision claim for damage to his truck. He did not make an uninsured motorist claim.

19 On March 22, 2016, Mr. Walker provided his first recorded statement to Twin City.
20 Consistent with the police report, Mr. Walker explained in his recorded statement that he
21 swerved to avoid an oncoming vehicle in his lane and struck a parked car. *See* Dkt. #25-2
22 ("Walker Recorded Statement") at 5:14-6:8. Mr. Walker recounted this same detail to his
23 medical providers. *See* Dkt. #25-3 at 2 and 4.

24 Mr. Walker provided a second recorded statement to a Twin City investigator three
25 months later on June 2, 2016. Mr. Walker again explained he swerved to avoid a vehicle in his
26 own lane. *See* Dkt. #25-4 at 33:16-35:5.

1 On October 3, 2016, Mr. Walker called Twin City, and for the first time, requested his
2 claim be covered as an uninsured motorist (“UIM”) claim. *See* Dkt. #25-5. When the adjuster
3 on the phone explained that, due to the facts of the loss as described in two separate recorded
4 statements, there was no such coverage, Mr. Walker stated that a vehicle had approached him
5 from behind, performed a “PIT” pursuit intervention technique maneuver, hitting his vehicle,
6 and causing him to lose control and strike the parked car.
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8 After its investigation was completed, Twin City made the following coverage
9 determinations: Twin City paid Walker \$12,388.99 for the damage to his truck under the
10 collision coverage; Twin City denied PIP coverage for wage loss and household services and
11 noted that no medical bills had been submitted (however, Hartford eventually did pay more
12 than \$13,000 in medical bills for treatment incurred on the date of the accident at Valley
13 Medical Center that Walker submitted); Twin City denied Walker’s UIM claim. *See* Dkts. #25-
14 6, #25-7 and #25-8.
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16 Mr. Walker filed this litigation on March 29, 2019. During the litigation, Walker
17 provided a letter dated July 11, 2016, from an alleged witness, Cheryl Read, corroborating that
18 a vehicle had struck Mr. Walker’s truck. Dkt. #25-9.
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20 III. DISCUSSION

21 A. Legal Standard

22 Summary judgment is appropriate where “the movant shows that there is no genuine
23 dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed.
24 R. Civ. P. 56(a); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247 (1986). Material facts are
25 those which might affect the outcome of the suit under governing law. *Anderson*, 477 U.S. at
26 248. In ruling on summary judgment, a court does not weigh evidence to determine the truth of
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1 the matter, but “only determine[s] whether there is a genuine issue for trial.” *Crane v. Conoco,*
2 *Inc.*, 41 F.3d 547, 549 (9th Cir. 1994) (citing *Federal Deposit Ins. Corp. v. O’Melveny &*
3 *Meyers*, 969 F.2d 744, 747 (9th Cir. 1992)).

4 On a motion for summary judgment, the court views the evidence and draws inferences
5 in the light most favorable to the non-moving party. *Anderson*, 477 U.S. at 255; *Sullivan v.*
6 *U.S. Dep’t of the Navy*, 365 F.3d 827, 832 (9th Cir. 2004). The Court must draw all reasonable
7 inferences in favor of the non-moving party. *See O’Melveny & Meyers*, 969 F.2d at 747, *rev’d*
8 *on other grounds*, 512 U.S. 79 (1994). However, the nonmoving party must make a “sufficient
9 showing on an essential element of her case with respect to which she has the burden of proof”
10 to survive summary judgment. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986).

13 **B. Analysis**

14 When interpreting an insurance policy, the court must consider the policy as a whole
15 and arrive at a “fair, reasonable, and sensible construction as would be given to the contract by
16 the average person purchasing insurance.” *Quadrant Corp. v. American States Ins. Co.*, 154
17 Wn.2d at 171, 110 P.3d 733 (2005) (quoting *Weyerhaeuser Co. v. Comm’l Union Ins. Co.*, 142
18 Wn.2d 654, 666, 15 P.3d 115(2000)). If the language in an insurance policy is unambiguous,
19 “[the court] must enforce it as written; we may not modify it or create ambiguity where none
20 exists.” *Quadrant*, 154 Wn.2d at 171.

22 Here, the Twin City policy does “not provide coverage for any insured who has made
23 fraudulent statements or engaged in fraudulent conduct in connection with any accident or loss
24 for which coverage is sought under this policy.” Dkt. #25-15 at 49. Twin City’s investigation
25 did not support Mr. Walker’s version of the facts. Twin City presents sufficient evidence that
26 Mr. Walker has made misrepresentations in seeking the coverage at issue, including the
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The Court notes that, even if Twin City had not relied on the fraud clause, under the above summary judgment standard there is insufficient evidence for a reasonable jury to conclude that Mr. Walker's claims have any merit. Mr. Walker has failed to make a sufficient showing on the essential elements of his case to survive summary judgment.

Having considered the applicable briefing submitted by the parties and the entire record, the Court hereby finds and ORDERS that Defendant Twin City's Motion for Summary Judgment, Dkt. #24, is GRANTED. This case is DISMISSED.

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ORDER GRANTING MOTION FOR SUMMARY JUDGMENT - 5